

General Information Letter: Response to questions regarding Indiana residents working in both Illinois and Indiana for single employer after reciprocal agreement termination.

January 7, 1998

Dear:

This is in response to your letter of December 16, 1997. Department rules require that the Department issue two types of letter rulings, private letter rulings (**PLRs**) and general information letters (**GILs**). For your general information we have enclosed a copy of 2 *Ill. Adm. Code 1200* regarding letter rulings and other information issued by the Department.

Although you have not specifically requested either type of ruling, the nature of your questions and the information provided require that we respond with a **GIL**. **GILs** are designed to provide background information on specific topics and are not rulings that are binding on the Department, while **PLRs** are binding on the Department.

In your letter, you inquire as follows:

I am responsible for preparing payroll for xxxxxxxxxxxx xxxxxxxxxxxx and am having some problem getting a definitive course of action in regard to this new tax development. Our dilemma is as follows:

* We are an Indiana Farming Corporation with workplaces both in Indiana and Illinois.

* We hire employees from Indiana and Illinois.

* Our mailing address is in Indiana but, for the past 2 years, have maintained an office in Illinois - xx x xxx xxxx xxxxxxxxxxxxxxxx, Il xxxxx (approx. 2 miles from Indiana Border)

* Our employees work either in Indiana or Illinois, depending on what fields require at any given time, often changing back and forth from state to state within a days work.

* A good portion of our employees are seasonal, beginning in the spring and working as needed for planting or harvests.

I am sending this information to obtain, in writing, the course of action the State of Illinois requires us to follow. Considering our workschedule, it would cause extreme hardship to try to keep track of hours spent working in each state and tax each employee on that basis.

As we are about to begin the new year, I would appreciate a rapid response so we may begin 1998 using the correct formulas for withholding and I thank you in advance for your assistance.

Please find enclosed herewith IDOR Bulletin FY 98-18, dated Dec., 1997, which discusses the Ill. Income Tax withholding ramifications arising due to cancellation of the aforementioned reciprocal agreement between Illinois and Indiana. We also enclose herewith the Il-700 Booklet, which sets forth general IIT withholding law requirements.

Among other things, cancellation of the reciprocal agreement imposes upon "Illinois employers" the obligation to withhold IIT from the wages paid to Indiana residents. Based upon the limited facts described in this correspondence, it appears that the farming corporation in question may well be an "Illinois employer" as defined in the Il-700 booklet at page 2 (see highlighted language). As such, the employer must withhold IIT from 100% of the wages paid to its Illinois resident employees and from 100% of compensation paid in Illinois to Indiana residents as described at page 3 of the Il-700 booklet.

As we noted above, the foregoing discussion is a **GIL** and not a **PLR**. In order to request a **PLR**, it would be necessary to provide us with a request that complies with the requirements of *IIT Reg. Sec. 1200.110* of our rules.

Very truly yours,

Jackson E. Donley
Associate Counsel